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Attorneys for Plaintiffs
VULY TRAMPOLINES PTY LTD. and
VULY USA OPERATIONS CORP.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

VULY TRAMPOLINES PTY LTD., an
Australia corporation, and VULY USA
OPERATIONS CORP., a California
corporation,

Plaintiffs,

vs.

JUMPSPORT, INC.,
a California corporation,

Defendant.

Case No.

COMPLAINT

JURY TRIAL DEMANDED

COMPLAINT

Vuly Trampolines Pty Ltd. (“Vuly AU”) and Vuly USA Operations Corp. (“Vuly USA”) (collectively “Vuly”) bring this Complaint for declaratory judgment against JumpSport, Inc., and alleges as follows:

THE PARTIES

1. Vuly AU is an Australia corporation with its principal place of business in Brisbane Australia.

2. Vuly USA is a California corporation with its principal place of business in Gardena, California.

1 3. Defendant JumpSport, Inc. is a California corporation with its principal place of
2 business in San Jose, California.

3 **JURISDICTION AND VENUE**

4 1. This Court has subject matter jurisdiction over this action under 28 U.S.C. §§ 1331
5 and 1338(a).

6 2. This Court has personal jurisdiction over JumpSport because JumpSport is a
7 California corporation and has its principal place of business in this judicial district.

8 3. Venue is proper in this judicial district under 28 U.S.C. § 1400 and 28 U.S.C.
9 § 1391(b).

10 **INTRA-DISTRICT ASSIGNMENT**

11 4. This Action is appropriately assigned to the San Jose Division of this Court
12 because a substantial part of the events and/or omissions which give rise to the claims stated
13 herein occurred in San Jose, California and defendant JumpSport resides in this judicial district.

14 **BACKGROUND**

15 5. Vuly repeats and realleges each and every allegation set forth in paragraphs 1
16 through 5.

17 6. Vuly AU was formed in 2008 by its then-18-year-old founder and CEO Joe Andon
18 to create and sell high-quality backyard trampolines. Vuly's revolutionary trampoline design
19 quickly caught on and, by 2011, Vuly trampolines could be found in over 400 retail stores across
20 Australia.

21 7. In 2012, Vuly AU began to expand into international markets.

22 8. In 2013, Vuly AU launched its Thunder trampoline, a revolutionary trampoline
23 designed to be strong, safe and have the best bounce of any recreational trampoline in existence.

24 9. In 2014, Vuly USA Operations Corp. was established to act as a distributor of
25 Vuly trampolines in the United States, including the Vuly Thunder trampoline.

26 10. Vuly is informed and believes that JumpSport was formed in 1998. Vuly is
27 informed and believes that JumpSport sells various trampoline products both through retail
28

1 establishments and on-line directly to consumers through its website located at
 2 www.jumpsport.com.

3 11. JumpSport personnel, including JumpSport's CEO Mark Publicover, have
 4 informed Vuly that JumpSport is the owner of various intellectual property rights relating to
 5 trampolines and trampoline enclosures, including United States Patent No. 6,261,207 (the "'207
 6 Patent").

7 12. Vuly is informed and believes that certain claims, including claims 29 and 38 of
 8 the '207 Patent have been previously confirmed in a final judgment to be invalid over prior art.
 9 Vuly is informed and believes that, therefore, claims 9 and 25 upon which claim 29 depends, and
 10 claims 16, 33 and 35, upon which claim 38 depends, are likewise invalid.

11 13. Mr. Publicover has informed Vuly both in writing and orally that JumpSport
 12 believes that Vuly's product line, including but not limited to the Thunder trampoline, infringe
 13 the '207 Patent.

14 14. Mr. Publicover has informed Vuly orally that JumpSport would commence
 15 litigation if Vuly were to market or sell any of its trampoline models, including the Thunder
 16 trampoline, in the United States.

17 **FIRST CLAIM FOR RELIEF**

18 **(Declaratory Judgment)**

19 15. Vuly repeats and realleges each and every allegation set forth in paragraphs 1
 20 through 14.

21 16. An actual controversy has arisen and now exists between Vuly and JumpSport
 22 concerning whether Vuly's Thunder model trampoline infringes one or more valid claims of the
 23 '207 Patent.

24 17. In both oral and written communications, JumpSport has claimed that Vuly's
 25 trampoline models, including the Thunder trampoline, infringe one or more claims of the '207
 26 Patent. JumpSport has orally threatened to commence litigation against Vuly if Vuly were to
 27 market or sell any trampoline models in the United States, including the Thunder trampoline.
 28

1 18. Vuly wishes to market and sell the Thunder trampoline in the United States and
2 denies that the Thunder trampoline infringes any valid claims of the '207 Patent.

3 19. A judicial determination is necessary and appropriate under the circumstances in
4 order that Vuly may ascertain its legal rights and obligations, if any, to JumpSport in light of the
5 '207 patent.

6 20. Vuly seeks a judicial determination of the rights, duties and obligations of the
7 parties and, particularly, without limitation, a judicial determination that Vuly's Thunder
8 trampoline does not infringe the '207 Patent.

9 **PRAYER FOR RELIEF**

10 WHEREFORE, Vuly prays for judgment against JumpSport as follows:

- 11 1. For a judicial declaration that Vuly's Thunder trampoline does not infringe the
12 '207 Patent.
- 13 2. For costs of this action; and
- 14 3. For such other and further relief as the Court may deem just and proper.

15 **JURY DEMAND**

16 Pursuant to Federal Rule of Civil Procedure 38, Vuly demands a trial by jury on all issues
17 so triable.

18
19 Dated: May 21, 2014

SQUIRE SANDERS (US) LLP

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21 By: /s/ Joseph A. Meckes
Joseph A. Meckes

22 Attorneys for Plaintiffs
23 VULY TRAMPOLINES PTY LTD. and
24 VULY USA OPERATIONS CORP.
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